

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th day of May, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

H.R.R.P. No. 615 of 1998

S.S. Hiremani
Occ: Retd. from service,
No.18, Court Street,
Camp: Belgaum

.. Petitioner

(By Sri M. Ram Bhat, Advocate)

-Vs-

1. Smt. Rukhsana Parveen
Muslim,
Occ: Household,
r/o Shoukat Building,
Mahadwar Road,
Belgaum;

2. Smt. Rehana Masood Mulla,
Muslim, Occupation: House-
hold Work Patil Chawl,
Vijayanagar,
Belgaum

.. Respondents

(By Mrs. Shantha W.Joshi, Advocate)

H.R.R.P. is filed praying to quash the order dated 5-3-1998 passed in HRC RP No.25/93 on the file of the I Addl. Dist.Judge, Belgaum, allowing the revision petition and setting aside the order passed in HRC No.320/87, dated 31-7-93, by the IV Addl. Munsiff, Belgaum, dismissing the petition filed U/s 21(1) (h) and (j) of KRC Act.

This H.R.R.P. coming on for admission this day, the Court made the following:-

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ORDER

This is a revision petition by the tenant under Section 115 of the Code of Civil Procedure. The respondents herein filed an eviction petition against the petitioner herein, in HRC No 320 of 1987 on the file of IV Addl Munsiff, Belgaum, under the provisos (j) and (h) of Section 21(1) of the Karnataka Rent Control Act, in regard to a portion of the premises, which is in the occupation of the petitioner. The respondents claim that the petition schedule property was gifted to them under a registered gift deed dated 29-4-1985 and therefore they were landlords of the premises. They also claim that the premises were required for their own use, after effecting necessary repairs. The petitioner resisted the eviction petition.

2. The trial court held that the respondents had made out a case that their need was bona fide and reasonable. Nevertheless, the trial court dismissed the petition as not maintainable on the ground that the respondents had failed to prove that the gift in their favour was valid. Feeling aggrieved, the respondents ^{herein} ~~have~~ filed HRC RP 25 of

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1993. The petitioner herein filed HRC RP 44 of 1995 against the finding of the trial court that the respondents had made out their bona fide requirement of the premises. These two revision petitions were disposed of by a common order dated 5-~~13~~/1998. The landlords' revision petition was allowed and the tenant's revision petition was rejected. The revisional court held that there was a valid gift in favour of the respondents and there exists a relationship of landlords and tenant between the respondents and the petitioner. The revisional court also affirmed the findings of the trial court in regard to the bona fide requirement of the premises by the respondents. Feeling aggrieved, the tenant has filed this revision petition.

3. The revisional court has taken note of the following facts to reach a conclusion that the gift in favour of respondents was valid and they were landlords of the premises:

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- a) The tenant admitted that the father of respondents was the earlier owner and landlord of the premises.
- b) There was a registered Gift deed in favour of the respondents by their father, gifting the premises;
- c) The respondents's father given evidence confirming the gift; and
- d) The tenant could not demonstrate any aspect of the gift ~~good~~ which made it invalid.
- e) The khata in regard to the property had also been transferred in favour of the respondents, in the Municipal records.

These facts were sufficient to hold that there was a valid gift and respondents were the landlords of the premises.

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4. Both the courts have concurrently held that the respondents bona fide and reasonably required the petition schedule premises and greater hardship will be caused to them, if an eviction order is not passed.

5. In the circumstances, I do not find any jurisdictional error in the order by the revisional court, which requires to be corrected in a petition under Section 115. No ground is made out to interfere with the order of eviction passed against the petitioner.

6. At this stage, the learned counsel for the petitioner requested one-and-a-half years time for vacating the premises. Learned counsel for respondents who opposed grant of any time, finally agreed for grant of such time, subject to petitioner filing an affidavit undertaking to (a) pay the rents regularly; (b) not to induct any one else in to the premises; (c) to ^{keep} ~~take~~ the premises in good condition; and (d) to vacate and deliver vacant possession of the premises within the agreed

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period. Learned counsel for the petitioner stated that petitioner is agreeable to file such an undertaking within one month.

6. In view of above, this petition is dismissed. The petitioner is however granted eighteen months from to day to vacate and deliver vacant possession of the petition schedule premises, subject to petitioner filing an undertaking as above, within one month from this date. If the petitioner fails to file such an undertaking into this Court, the petitioner shall vacate the premises within three months from today.

Sd/-
JUDGE

*pjk /ujk